

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7782 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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PATEL BHAGUBHAI AMBALAL

Versus

STATE OF GUJARAT

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Appearance:

MR SATISH A PANDYA for Petitioner

MR.A.G.URAIZEE.Asstt.Govt.Pleadedrf for Respondent No. 1, 2

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CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 16/03/96

ORAL JUDGEMENT

The petitioner has questioned the legality and validity of the orders as at Annexures A,B and C dated 30.3.1990,27.9.1993 and 30.6.1995 respectively recorded by the authorities below,by invoking aids of provisions of Articles 226 and 227 of the Constitution of India.

Learned advocate for the petitioner inter-alia contended that an application for exemption under Section 20 of the Urban Land (Ceiling and Regulation) Act, 1976 ('the Act' for short) was submitted on 9.8.1983 and before it is decided on merits, the competent authority finalised the proceedings in respect of application in form No.1 under Section 6 of the Act and, therefore, it is illegal and should be set aside. This submission is rightly not questioned on behalf of the respondents by the learned Assistant Government Pleader Mr. Uraizee. There is no dispute about the fact that application for exemption under Section 20 is yet not resolved and decided and unless it is decided, the competent authority, respondent No.2 could not have and should not have finalised the proceedings in respect of form No.1 under Section 6 of the Act.

Other points are also raised challenging validity and propriety of the impugned orders. Since this court finds that the impugned order is vitiated on the aforesaid ground, the other submissions are not required to be examined in greater detail at this stage. Therefore, this petition is disposed of on the aforesaid sole ground. The impugned orders are quashed and the case is remitted back to the competent authority for reconsideration in accordance with law. The competent authority, respondent No.2 obviously shall have to wait for finalisation of form No.1 under Section 6 of the Act till the application under Section 20 of the Act submitted by the petitioner is finalised.

Under the circumstances, petition is allowed. Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

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